

HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ALAN BARROWMAN, an individual; and  
JESSICA ROBERTSON, an individual,

Plaintiff:

V.

WRIGHT MEDICAL TECHNOLOGY, INC.,  
a Delaware corporation; RTI SURGICAL,  
INC., a Delaware corporation;  
REGENERATION TECHNOLOGIES, INC., a  
Delaware corporation,

Defendants.

## STIPULATION

COME NOW the parties, by and through their respective counsel of record, and hereby  
jointly submit this stipulated motion and proposed order for separate Fed.R.Civ.P. 35 examinations  
of the two plaintiffs, Alan Barrowman and Jessica Robertson. The parties stipulate as follows:

1. The plaintiffs, Alan Barrowman and Jessica Robertson, each agree to appear for a separate independent medical examination in King County, with a physician chosen by defendant on a date and at times to be agreed upon;

STIPULATION FOR RULE 35 EXAMINATION  
OF PLAINTIFFS  
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- 1       2. Provided availability can be confirmed with Dr. Eugene Toomey, M.D., Dr. Toomey  
2       will be the examiner conducting the examinations in Seattle; if Dr. Toomey becomes  
3       unavailable, another examiner will be selected;
- 4       3. The examination of each plaintiff will be conducted separately by the examining  
5       physician, and the plaintiffs may not attend each other's examinations;
- 6       4. Records provided to the examining physician to review will be provided by defense  
7       counsel;
- 8       5. Each plaintiff shall have the right to have a representative present at the examination,  
9       who may observe but not interfere with or obstruct the examination, but the  
10       representative shall not be the other plaintiff;
- 11       6. The examination of each plaintiff shall consist of a verbal history and physical  
12       examination, and the examining physician at his or her discretion may take images  
13       and/or may request that the plaintiff being examined fill out a pain diagram;
- 14       7. The plaintiff being examined or that person's representative at the examination may  
15       make an audiotape recording of the examination, which shall be made in an  
16       unobtrusive manner, provided that plaintiffs, through their counsel, shall produce to  
17       defendant a copy of any audio recorded of either examination within 14 days of the  
18       examination;
- 19       8. The plaintiffs or their representatives may not videotape either of the examinations;
- 20       9. The examining physician may have a member of his or her office or nursing staff  
21       present to observe the examination;
- 22       10. The examining physician shall make a written report as to each plaintiff's respective  
23       examination, which shall be delivered to plaintiffs' counsel within 45 days of the  
24       examination;
- 25       11. Defendants will pay the examining physician's fees for the IME examinations;
- 26       12. Plaintiffs will pay their own travel costs and other expenses incurred by them in  
27       attending the IME examinations;
- 28       13. If plaintiffs request to take the discovery deposition of the examining physician,  
29       plaintiffs agree to pay the examining physician's fees for the deposition, at a rate of  
30       \$1,000 per hour for Dr. Toomey, with prepayment of the first two hours required for  
31       the two plaintiffs, and with any additional time to be billed to plaintiffs after  
32       testimony, and provided that plaintiffs agree to pay any travel time incurred by the  
33       examining physician, if any, at the rate of \$250 per hour.

STIPULATION FOR RULE 35 EXAMINATIONS  
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2 Approved as to form and content by:

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| NORTHCRAFT BIGBY & BIGGS, PC<br>By: <i>/s/ Aaron D. Bigby</i><br>Aaron D. Bigby, WSBA #29271<br>For Plaintiffs | ANDREWS • SKINNER, P.S.<br>By <i>/s/ Kristen Dorrity</i><br>Kristen Dorrity, WSBA #23674<br>For Defendants |
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## II. Order

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This matter having been submitted to the Court pursuant to the foregoing stipulation of the

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parties and with the Court duly informed, now, IT IS SO ORDERED.

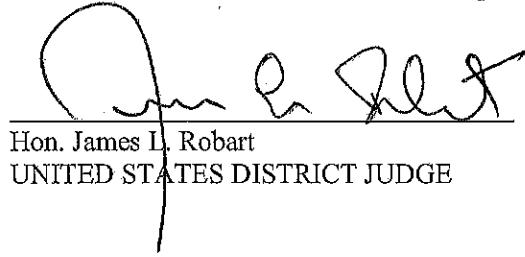
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So ordered this 24th day of February, 2017

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Hon. James L. Robart  
UNITED STATES DISTRICT JUDGE

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16 Approved for entry by:

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| NORTHCRAFT BIGBY & BIGGS, PC<br>By: <i>/s/ Aaron D. Bigby</i><br>Aaron D. Bigby, WSBA #29271<br>For Plaintiffs | ANDREWS • SKINNER, P.S.<br>By <i>/s/ Kristen Dorrity</i><br>Kristen Dorrity, WSBA #23674<br>For Defendants |
|--|--|

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 23, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

By /s/ Kristen Dorrity  
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Attorneys for Defendants Wright Medical  
Technology, Inc., RTI Surgical Inc. and  
Regeneration Technologies, Inc.

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